

Case 2:09-cv-00370-GZS Document 19-2 Filed 11/19/09 Page 1 of 2

DAVID A. LOURIE

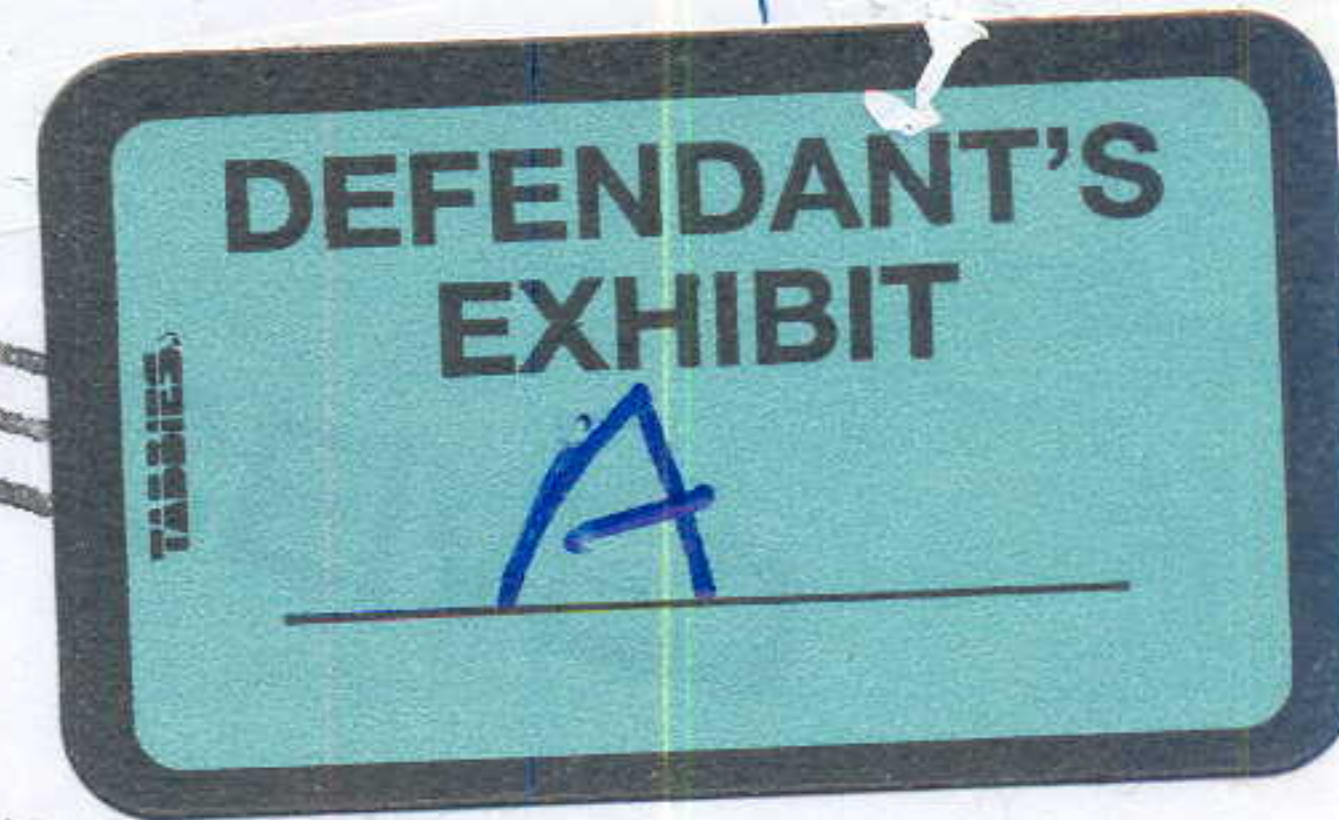
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RE

OCT 13 2009

City of Portland
Planning Division

October 9, 2009

Penny Littell, Director
Department of Planning & Urban Development
Portland City Hall
389 Congress Street
Portland, ME 04101

Re: Site Plan Submission and Waivers for Washington Avenue Masjid

Dear Penny:

This will confirm that I am working with the owner and the Afghan community to put together a site plan application for the City for the small mosque or masjid. Although the City has been demanding that a site plan application be filed, §525 appears to prohibit the Department or Board approving such a site plan while the use "violates" Article III of the Land Use Code. I was writing this letter when you and Barbara Barhydt returned my call to Barbara, and we discussed this issue.

As I understand your position, the City still wants a full site plan to review, although the application would be somewhat academic unless and until the use is determined to be in compliance with zoning requirements (or the Court invalidates those requirements with which the community cannot comply.) I cannot recommend that course to my clients, due to the immense financial burden it would place on them.

As you may be aware, the Afghan Community is not a wealthy group. They have been quoted prices from design professionals in excess of \$11,000, which may not even comply with all of the detailed content requirements of §525(b)(2)(b.) These design expenses would be in addition to any physical changes required as a result of your site plan review, and on top of the \$3,000 they tell me that they have already paid to the City in fees and fines to date. I cannot recommend that they undertake such expense at this time, just so that the staff will have something to look at while the litigation, and/or revision of the City's ordinance goes on.

From our discussion, you seem to have already ruled out any waivers, as you want the Afghan community to do what everyone else has to do. However, this situation differs from most, as §525(b)(3) specifically authorizes waiver of some or all of these requirements in the case of a change of use:

"In the case of a change of use of an existing building, the planning authority or the board may waive required submissions as to the exterior of the building or to

October 9, 2009
Page October 9, 2009

the lot if there are no exterior or outside changes proposed or required.”

I am submitting this request despite your negativity, as I am certain that refusal to grant a waiver will delay any site plan submission indefinitely. As to the paving of the parking area appears to be the only arguable “exterior or outside change”, we will propose that the asphalt be taken up if necessary to bring this request within the express terms of the waiver provision (despite the payment of \$300.00 to the City for an after the fact permit which there no reasonable likelihood that they will get.)

In sum, we request a waiver of *all* these submission requirements, with a simple plot plan accepted in lieu thereof, or of as many of these requirements as is reasonable to accommodate this change of use.

Please advise.

Sincerely,



David A. Lourie

cc: Barbara Barhydt
Gary Wood, Esq.
Zachary Heiden (MCLU)
clients